HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1776 OF 1997

Oil & Natural Gas Corporation Ltd.,
A Company registered under the Companies
Act having its Head office at Tel bhavan
Dehra Dun and Bombay Office at
Vasudhara Bhavan, Bandra (E),
Bombay. 400 051. ..Petitioners.

Versus.

1. Gram Panchayat Mhatvali,
   Tal: Uran, Dist: Raigad.
2. CIDCO Ltd., 2nd floor,
Narimal Bldg, Nariman Point,
Bombay 400 020.
3. State of Maharashtra
Through: Secretary of the Gramin
Vikas Mantralaya, Mumbai - 32.
4. Pramukh Zilla Parishad,
Dist: Raigad. ..Respondents.

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WRIT PETITION NO. 1778 OF 1997.

Oil & Natural Gas Corporation Ltd.,
A Company registered under the Companies
Act having its Head office at Tel bhavan
Dehra Dun and Bombay Office at
Vasudhara Bhavan, Bandra (E),
Bombay. 400 051. ..Petitioners.

Versus.

1. Gram Panchayat Nagaon,
   Tal: Uran, Dist: Raigad.

2. CIDCO Ltd., 2nd floor,
Narimal Bldg, Nariman Point,
Bombay 400 020.

3. State of Maharashtra
Through: Secretary of the Gramin
Vikas Mantralaya, Mumbai - 32.

4. Pramukh Zilla Parishad,
Dist: Raigad. ..Respondents.

Advocates in both writ petitions.

Mr. P. N. Singh i/b M/s. Vyas & Bhalwal & Co., for the petitioner.

Mr. C. G. Gavnekar for respondent nos. 1 & 4.

Ms. P. S. Cordozo A.G.P. for the State.

CORAM: S. B. MHASE &
SMT. NISHITA MHATRE, JJ.

DATE: FEBRUARY 14, 2007.

ORAL JUDGMENT (Per S.B.Mhase,J.)

1. Heard learned counsel for the petitioner and learned counsel for respondents as well as learned A.G.P. for the State. These two petitions are disposed of by this common judgment because the issue and facts involved in these two petitions are identical and same. However, for the sake of convenience the facts of writ petition no. 1776 of 1997 are mentioned here.

2. The petitioners have approached to this Court under Articles 226 & 227 of the Constitution of India seeking a writ of mandamus and/or writ or order or direction in the nature of mandamus, directing the respondent no.1 to withdraw the notice of demand and notice of attachment dated 20th February 1997, 24th February 1997 and 10th March 1997 and warrant of

attachment dated 10th March 1997. The petitioner is the Central Government Corporation. Respondent No.2 is a Corporation established by the State Government of Maharashtra and is a Planning Authority for the area declared for the said Corporation. That area comprises some of the portion from the area of the respondent no.1 Gram Panchayt, Mhatvali. Certain plots were allotted by respondent no.2 to the petitioner by an agreement made on 1.10.1982 and the respondent no.2 had granted the petitioner a licence to enter upon the land for the purpose of erecting a building. After getting possession of the said land, after following legal formalities, the petitioner has constructed several godowns, Yards and Offices for their trans- Panvel and Trans - Thane creek. Initially, the respondent no.1 Grampanchayt demanded information in respect of the cost of the construction so as to enable respondent no.1 to impose a property tax. The information was not given. Yet the respondent no.1 imposed the property tax and the same was paid. But the payment of the said taxes was disputed by the petitioner from the year 1993-94 onwards, and therefore ultimately respondent no.1 after issuing notice of demand has proceeded further to attach the property of the petitioner so as to recover the property tax. Under these circumstances, the petitioners have approached to this

Court.

2. The main question which falls for determination in this petition is:

> "Whether powers and functions of any local authority immediately existing before the constitution of the New Town Development Authority would cease to exist by operation of law no sooner the New Town Development Authority for the area is constituted under sub-section (3-A) of Section 113 of the M.R.T.P. Act, 1966 ?"

3. We need not ponder upon this issue because this Court has answered this issue in **2001(1) Mh.L.J. 806 in the matter of Bima Office Premises Co-operative Society v/s. Kalambli Village Panchayat, Kalamboli.** The answer given by this Court is reflected in paragraph 37 wherein it is observed that:

> "Under these circumstances, we are of the considered view that respondent No.1 Gram Panchayat was perfectly justified in assessing, imposing and recovering the taxes from the petitioners notwithstanding the designation and establishment of New Town Development Authority under section 113(3-A) of the MRTP Act."

4. However, our attention was invited by the learned counsel for the petitioner to paragraph 39, wherein it is observed that remedy of appeal against the respective demand notices is available with the petitioners, which the petitioners can avail. Thereafter the time has been granted to prefer appropriate appeals against the demand notices with further directions that the competent authority shall dispose of the said appeals within the stipulated period. Learned counsel for the petitioner, being aware of this position of law, has submitted that the petitioner also desire to avail the course as reflected in paragraph 39 of this judgment. Mr.C.G.Gavenekar learned counsel for the respondent submitted that if the facility of the appeal is availed of, it shall be limited to the extent of demand notices and not to other notices which are not subject matter of these writ petitions.

5. We find that in the facts and circumstances of the present case and in view of the above referred judgment of our Court, we will also follow the same course. We, therefore, dispose of these writ petitions with the direction that the remedy of appeals against the respective demand notices is available with the

petitioner which the petitioner can avail. Therefore, in the interest of justice and considering the fact that the petitioners were agitating their rights in the above petitions, we make it clear and direct that in the event of statutory appeal under the BVP Act is availed by the petitioners on or before 30th April 2007, then the competent Appellate Authority shall entertain the same without raising any question of delay in presenting the appeal or appeals and the respondents shall not be entitled to raise the objection of delay and appeals shall be decided by the Appellate Authority on its own merits as early as possible, at any rate, on or before 31st July 2007. With these directions the petitions are disposed of. Rule accordingly.

(SMT. NISHITA MHATRE, J.) **(S.B.MHASE, J.)**

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